

**BEFORE THE ARIZONA STATE BOARD OF
RESPIRATORY CARE EXAMINERS**

In the Matter of:) **CASE NO. C003841-18-012202**
)
)
BRIANNA R. KOCH, RCP)
Holder of License No. **012202**) **INTERIM ORDER FOR SUMMARY**
) **SUSPENSION OF LICENSE**
)
For the Practice of Respiratory Care)
In the State of Arizona)
_____)

In order to protect the public health, safety or welfare, the Arizona State Board of Respiratory Care Examiners (“Board”) enters the following Findings of Fact, Conclusions of Law, and Interim Order for Summary Suspension of License, setting forth the charges against Brianna R. Koch, RCP (“Respondent”).

FINDINGS OF FACT

1. The Arizona State Board of Respiratory Care Examiners is the duly constituted agency for licensing and regulating the practice of respiratory care in the State of Arizona and possesses jurisdiction over Respondent and the subject matter pursuant to A.R.S. § 32-3501, *et seq.*

2. Brianna R. Koch, RCP, is the holder of License Number 012202 which enabled her to practice respiratory care in the State of Arizona.

3. Respondent has been licensed to practice respiratory care in the State of Arizona since December 23, 2016 and Respondent’s license to practice respiratory care was active until July 28, 2020 prior to this action.

4. On or about December 6, 2017, the Board received information from Respondent’s employer, Banner Boswell in Sun City, Arizona, that Respondent had been terminated for “possible drug intemperance.”

5. On February 7, 2018, Respondent consented to entering into a non-disciplinary Stipulated Confidential Rehabilitation Agreement (“Consent Agreement”) with the Board’s

1 Executive Director, pursuant to A.R.S. § 32-3506(C)(7).

2 6. On or about August 29, 2019, the Board ordered a mandatory and random drug
3 screen pursuant to Term C of the Consent Agreement. Respondent failed to comply with the
4 Board's request.

5 7. On or about September 4, 2019, the Board made a second request for a mandatory
6 and random drug screen pursuant to Term C of the Consent Agreement. Respondent complied
7 and submitted to both a urine and hair follicle test. The urine drug screen was diluted but did not
8 return a positive result for any illicit substances. The hair follicle test returned a positive result
9 for cocaine.

10 8. To date, Respondent has failed to comply with several terms of the Consent
11 Agreement, specifically:

12 a. Term A. PARTICIPATION IN AA/NA – Respondent has not submitted any
13 evidence of court mandated education and/or counseling and has not attended any
14 AA/NA meetings since entering into the agreement.

15 b. Term B. ABSTAIN FROM ALCOHOL: UNAUTHORIZED DRUG
16 USE/PROOF OF PRESCRIPTION – Respondent tested positive for cocaine on
17 September 4, 2019 and did not disclose any prescription drug information to the
18 Board prior to September 12, 2019.

19 c. Term C. MANDATORY AND RANDOM DRUG TESTING – Respondent failed
20 to comply with the Board's request on August 29, 2019 and submitted a diluted
21 sample in violation of this provision.

22 d. Term D. EMPLOYER NOTIFICATION – Respondent did not provide her
23 current employer with a copy of the Consent Agreement.

1 e. Term E. QUARTERLY REPORTS FROM EMPLOYER – Respondent has been
2 employed since February 2019 and has submitted zero quarterly reports from
3 employer.

4 f. Term H. CHANGE OF EMPLOYMENT: PERSONAL ADDRESS:
5 TELEPHONE NUMBER – Respondent did not disclose her change of
6 employment with the Board in February 2019.

7 g. Term J. OBEY ALL LAWS – Respondent admittedly ingested an illicit substance
8 in August of 2019, in violation of state and federal law and failed to obey the laws
9 and rules governing the practice of respiratory care in this state.

10 9. The Board reviewed the preliminary investigative materials and based on the
11 findings, the Board was concerned that Respondent’s continued practice as a respiratory therapist
12 at this time might endanger the public health, safety, or welfare.

13 10. The Board discussed these allegations at a Special Board Meeting on September
14 12, 2019 and found that the protection of the public health, safety or welfare imperatively
15 required emergency action due to the egregious nature of Respondent’s conduct and the potential
16 harm to the public’s health, safety or welfare.

17 **CONCLUSIONS OF LAW**

18 1. The Board of Respiratory Care Examiners of the State of Arizona possesses
19 jurisdiction over this subject matter and Respondent pursuant to A.R.S. § 32-3501, *et seq.*

20 2. The Board has the authority to issue an Interim Order of Summary Suspension of
21 License and conduct an administrative hearing to determine whether Respondent’s license to
22 practice respiratory care should be disciplined pursuant to A.R.S. § 32-3553(E), in conjunction
23 with A.R.S. § 32-3552(A).

24 3. The Board has the statutory authority to enter this Interim Order for Summary
25 Suspension of License pursuant to A.R.S. §§ 41-1064(C) and 32-3553(E).

1 4. Based upon the evidence and information known to the Board regarding
2 allegations set forth above in the paragraphs above, the Board finds that to protect the public's
3 health, welfare or safety, it is necessary to invoke the Board's authority, pursuant to A.R.S. § 32-
4 3553(E), to summarily suspend the license issued to Raymond Hernandez to practice respiratory
5 care in the State of Arizona.

6 5. Respondent's conduct as alleged, if subsequently established to be true after
7 formal hearing, constitutes grounds for disciplinary action pursuant to violations of:

- 8 a. A.R.S. § 32-3552(A)(3) Commits an act of unprofessional conduct.
- 9 b. A.R.S. § 32-3501(9)(c) Illegal use of narcotic or hypnotic drugs or
10 substances.
- 11 c. A.R.S. § 32-3501(9)(g) Immorality or misconduct that tends to discredit the
12 respiratory therapy profession.
- 13 d. A.R.S. § 32-3501(9)(i) Any conduct or practice which is contrary to
14 recognized standards of ethics of the respiratory therapy profession or any
15 conduct or practice which does or might constitute a danger to the health, welfare
16 or safety of the patient or the public.
- 17 e. A.R.S. § 32-3501(9)(j) Any conduct, practice or condition which does or
18 might impair the person's ability to safely and skillfully practice respiratory
19 therapy.
- 20 f. A.R.S. § 32-3501(9)(k) Violating or attempting to violate, directly or
21 indirectly, or assisting in or abetting the violation of or conspiring to violate a
22 provision of this chapter.
- 23 g. A.R.S. § 32-3501(9)(l) Failing to report to the board within ten calendar
24 days an incident or incidents that appear to show the existence of a cause for
25 disciplinary action or that a licensed respiratory care practitioner is or may be
26

1 professionally incompetent or is or may be mentally or physically unable to
2 engage safely in the practice of respiratory care.

3 h. A.A.C. R4-45-214 (1) Engaging in the practice of respiratory care in a
4 manner that harms or may harm a patient or that the Board determines falls below
5 the community standard.

6 i. A.A.C. R4-45-214 (3) Violating a formal order, condition of probation, or
7 stipulation issued by the Board, another regulatory entity of any state, or a court
8 of law.

9 j. A.A.C. R4-45-214 (6) Endangering a patient's or the public's physical or
10 emotional health or safety or engaging in conduct or practice that may be
11 reasonably expected to do so.

12 **ORDER**

13 **THEREFORE**, based upon the evidence and information known to the Board regarding
14 the allegations set forth above, the Board finds that in order to protect the public health, welfare
15 or safety, it is necessary to invoke the Board's authority, pursuant to A.R.S. § 32-3553 (E), to
16 summarily suspend Respondent's license to practice respiratory care.

17 **IT IS HEREBY ORDERED** that License Number 012202, issued to and held by
18 Brianna R. Koch is hereby **SUMMARILY SUSPENDED** from the **PRACTICE OF**
19 **RESPIRATORY CARE**, effective immediately upon issuance of this Order.

20 **NOTICE**

21 Pursuant to A.R.S. § 32-3553(E) the Respondent is entitled to a formal hearing before the
22 Board on the charges within sixty (60) days. The Respondent shall be served with a written
23 notice of complaint and formal hearing, setting forth the charges made against her as required by
24 the operative statute and rule.

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ARIZONA STATE BOARD OF RESPIRATORY CARE

John Confer
Executive Director

DATED THIS 12th DAY OF SEPTEMBER, 2019.

Original Interim for Summary
Suspension filed this 12th day of
September, 2019 with the:

Arizona Board of Respiratory Examiners
1740 West Adams, Suite 3406
Phoenix, AZ 85007

Copies of the foregoing sent by certified,
regular and electronic mail this 12th day
of September, 2019 to:

Brianna R. Koch
Address on Record & Email

Copy of the foregoing sent by inter
agency and electronic mail this ____
day of September, 2019 to:

Frankie Shinn-Eckberg, AAG
Office of Arizona Attorney General
2005 N. Central Ave
Phoenix, AZ 85004